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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/768,659	02/02/2004	Gerd Michaelis	Q79185	8253
23373	7590	01/03/2005		
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			EXAMINER CHERRY, STEPHEN J	
			ART UNIT	PAPER NUMBER
			2863	

DATE MAILED: 01/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/768,659

Applicant(s)

MICHAELIS ET AL.

Examiner

Stephen J. Cherry

Art Unit

2863

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10 and 11 is/are rejected.
- 7) ☐ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6-30-2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Drawings***

The drawings are objected to because the drawing should have English language descriptors for each of the objects, with reference numbers corresponding to a description of each object in the specification. Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-8 and 10-11 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,457,352 to Knestel.

Claim 1 recites, as disclosed by Knestel:

1. A method for operating a test bench to carry out simulation drives of a vehicle placed on the test bench, comprising: contacting at least one wheel of the vehicle to at least one roller of the test bench ('352, figs. 1 and 3); measuring a reaction torque of the roller in relation to the vehicle wheel on the roller of the test bench('352, 20, fig. 10); and determining a setpoint speed of the roller from the measured reaction torque ('352, 52-53, fig. 10-11 and col. 10, line 36)).

Claim 2 recites, as disclosed by Knestel:

2. The method according to claim 1, wherein the test bench is a roller test bench ('352, fig. 1).

Claim 3 recites, as disclosed by Knestel:

3. The method as claimed in Claim 1, further comprising calculating a reaction force from the reaction torque and a radius of the roller ('352, col. 5, line 5).

Claim 4 recites, as disclosed by Knestel:

4. The method as claimed in Claim 3, further comprising: calculating at least one additional reaction force for at least one additional roller; and adding the additional reaction force to the calculated reaction force ('352, 57, fig. 10).

Claim 5 recites, as disclosed by Knestel:

5. The method as claimed in Claim 3, wherein at least one additional force is added to the calculated reaction force ('352, 57, fig. 10).

Claim 6 recites, as disclosed by Knestel:

6. The method as claimed in Claim 5, wherein the additional force comprises a gradient resistance ('352, 57, fig. 10,  $F_{\text{SLOPE}}$ ).

Claim 7 recites, as disclosed by Knestel:

7. The method as claimed in Claim 5, wherein the additional force comprises a drag force ('352, 57, fig. 10, A, B, C, and D represent drag forces).

Claim 8 recites, as disclosed by Knestel:

8. The method as claimed in Claim 3, further comprising calculating a further value from the reaction force and a mass value  $m$  for the vehicle ('352, 57, fig. 10).

Claim 10 recites, as disclosed by Knestel:

10. A test bench, comprising: at least one roller configured to indirectly or directly contact at least one wheel of a vehicle ('352, figs. 1 and 3); means for measuring a reaction torque of the roller in relation to the vehicle wheel ('352, 20); and means for determining a setpoint speed of the roller from the measured reaction torque ('352, 52-53).

Claim 11 recites, as disclosed by Knestel:

11. The test bench as claimed in claim 10, wherein the test bench is a roller test bench ('352, figs. 1 and 3).

### ***Allowable Subject Matter***

Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

The claim 9 recites, "further comprising calculating a setpoint acceleration  $a$  of the roller from the reaction force  $F$  and a mass value  $m$  for the vehicle using the formula  $a = F/m$ ". This feature in combination with the remaining claimed structure avoids the prior art of record.

### ***Conclusion***


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Cherry whose telephone number is (571) 272-2272. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SJC



John Barlow  
Supervisory Patent Examiner  
Technology Center 2800